1941

File No. Cotton Contracts II/41

K

Legal DEPARTMENT

B BRANCH

Subject:—

The Bombay Cotton Contracts Act 1932

Rules and Notifications under

File No. Cotton Contracts II/41

Std. Sectt. Slip 24 B.e.

24 B

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G.H.D.
10/4/56

R.L.A'S Office

Paragraph 3 of F.D. office note dated 7-1-40 (P.7). The proposed new by law No. 44B (P.4) is legally free from objection.

Paragraph 7 of F.D. note (P.8-9).- The by-laws and the amendments, in this case, are proposed to be made under section 6 of the Bombay Cotton Contracts Act, 193[illegible] That section provides that the Board of Directors may, Subject to the sanction of the Provincial Government, make and from time to time add to, very or rescind by-laws for the regulation and control of transactions in cotton. Section 7 of the Act provides that by-laws made under section 6 shall be Subject to the condition of previous publication and when sanctioned by the Provincial Government shall be published in the official Gazette. Section 24 of the Bombay General Clauses Act, 1904, provides inter alia that where by a Bombay Act, a power to make by-laws is expressed to be given subject to the condition of the by-laws being made after previous publication, the following provisions shall apply, namely:-

(a) the authority having power to make the by-laws shall, before making them, publish a draft of the proposed by-laws for the information of persons likely to be affected thereby;

(b) the publication shall be made insuch manner as that authority deems to be sufficient;

(c) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into c[illegible]

consideration; and

(d) the authority having power to make the by-laws and where the by-laws are to be made with the sanction of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the by-laws from any person with respect to the draft before the date so specified.

2. The authority having the power to make the by-laws in this case is the Board of Directors. The by-laws are to be made with the sanction of another authority, namely, Government. It will appear from the provisions referred to in paragraph 1 above, that for previous publication, it is not necessary be published in the official Gazettee. The publication has to be made in such manner as the Board deems to be sufficient and publication by putting up the draft by-laws and amendments on the Notice Board would be sufficient compliance in law provided that along with the draft a notice is also published specifying the date on or after which the draft will be taken into consideration by the Board.

3. As pointed out in R.L.A.'s opinion No.300-p, dated the 15th August 1933, the previous publication referred to in section 7 is previous publication by the Board and not by ~~for Government to publish by-laws and amendments~~ Government. Consequently it is not necessary in law for for Government to publish by-laws and amendment again eliciting public criticism, though there is no objection to taking this additional step if Government considers it desirable to do so. In view of the provisions of clause(d) of section 24 of the Bombay General clauses Act. It will however be necessary for Government to consider before sanctioning the by-laws such objections and suggestions as may have been received by the Board when it published the draft by-laws

for the purpose of inviting objections and suggestions

Sd/-
18/3

Remembrancer of Legal Affairs.

U.R. to F.D. No 2491 Dated 19th March 1941.

M.R.D.
10/4/56

R.L.A.'S Office.

The preamble of the draft notification at PP. 9-10 ante is in order.

Sd/-
17/12

Remembrancer of Legal Affairs.

U.R. to F.D. No 10929, Dated 18-12-1941.

M.R.D.
10-4/56.